

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ELWOOD M. HUNTER,	§
	§ No. 105, 2011
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0608007491
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 21, 2011

Decided: March 28, 2011

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 28th day of March 2011, it appears to the Court that:

(1) On March 1, 2011, the Court received the appellant's notice of appeal from the Superior Court's August 20, 2009 order denying his motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal from the August 20, 2009 order should have been filed on or before September 21, 2009.

(2) On March 2, 2011, the Clerk issued a notice pursuant to Rule 29(b) directing the appellant to show cause why the appeal should not be dismissed as untimely filed. The appellant filed his response to the notice to show cause on March 15, 2011. In the response, the appellant states that he

did not receive a copy of the Superior Court's August 20, 2009 order and, therefore, did not know that he had 30 days from the date of the order in which to file a notice of appeal.

(3) Pursuant to Rule 6(a)(iii), a notice of appeal in any proceeding for postconviction relief must be filed within 30 days after entry upon the docket of the judgment or order being appealed. Time is a jurisdictional requirement.¹ A notice of appeal must be received by the Office of the Clerk of the Court within the applicable time period in order to be effective.² An appellant's *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Rule 6.³ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁴

(4) There is nothing in the record before us reflecting that the appellant's failure to file a timely notice of appeal in this case is attributable to court-related personnel. Consequently, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

¹ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

² Supr. Ct. R. 10(a).

³ *Carr v. State*, 554 A.2d at 779.

⁴ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice